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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

ORIGINAL

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In Re Application of ARIS MARDIROSSIAN For A Construction Permit For A New FM Station on Channel 295A at Ocean City, Maryland	)	File No. BPH-901224MI

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DEC 02 1991

TO: Chief, Audio Services Division
Mass Media Bureau

PETITION FOR LEAVE TO AMEND

Aris Mardirossian ("Mardirossian"), by his attorneys, hereby petitions for leave to amend its above-captioned application to include the attached amendment. The amendment amends Section V-B of Mardirossian's application to designate a new transmitter site due to the Federal Aviation Administration's ("FAA") refusal to approve Mardirossian's previously designated site. For the reasons that follow, Mardirossian respectfully submits that there is good cause for the acceptance of this amendment under Section 73.3522 of the Commission's rules and Erwin O'Conner Broadcasting Co., 22 FCC 2d 140 (Rev. Bd. 1970). See also Circle L, Inc., 101 FCC 2d 617 (Rev. Bd. 1985); Commanche Broadcasting, Inc., 197 FCC 2d 1059 (1984).

Due Diligence

In his December 24, 1990 application, Mardirossian proposed a transmitter site at 38°20'04" latitude, 75°07'16" longitude. On December 20, 1990, the firm of Cohen, Dippell and Everist ("CDE") notified the FAA on behalf of Mardirossian of the proposed construction.

No communications from the FAA were received with respect to this proposal until January 28, 1991, when CDE received an Acknowledgment of Notice of Proposed Construction or Alteration. That Acknowledgment advised CDE that the proposal would exceed FAA standards and further study was necessary to determine whether it would be a hazard to air navigation. On May 20, 1991, CDE received from the FAA a notice of Aeronautical Study of Proposed Construction or Alteration advising interested parties to comment on Mardirossian's proposal. On June 3, 1991, Mardirossian amended its application to submit the Acknowledgment and the Notice to the Commission and to advise the Commission that he was examining his options with respect to the FAA issue.

As a result of the study it conducted, the FAA issued as of November 1, 1991 a Determination of Hazard to Air Navigation, which becomes final on December 11, 1991. Since before the issuance of this Determination, Mardirossian, through his counsel and engineer, took steps to obtain permission to designate the new site and to coordinate with CDE for the preparation of the revised engineering study. It took significant study by CDE before Mardirossian would designate

the new site since it was not clear whether the Commission would grandfather certain short-spacings resulting from the new proposal. The enclosed amendment takes a conservative approach that eliminates any doubt about the propriety of the distance separation with other stations.

The new proposal, filed within 30 days of the date of the FAA Determination of Hazard, designates a site that is already subject to an FAA Determination of No Hazard to Air Navigation. A new tower will be built in the site by a third party and Mardirossian's antenna will be side-mounted there.

These facts establish that Mardirossian, through his representatives, acted diligently in seeking and obtaining a reasonable resolution of the FAA issues raised by his original transmitter site proposal and in keeping the Commission fully advised of the situation.

Nature of the Act Requiring Amendment

The FAA, as the regulatory agency implementing the standards and procedures applicable to air navigation, controls the timing and the nature of the process that is triggered by the filing of a Notice of Proposed Construction and Alteration for a broadcast tower. The Commission does not require that applicants have a final clearance from the FAA prior to proposing a transmitter site and, thus, an applicant has to await FAA processing of the Notice of Proposed Construction before it is able to determine if air navigation issues would be implicated in its proposal.

To the extent that the FAA, in its sole discretion, determines that there are air safety concerns, the applicant has to address those concerns by either persuading the FAA to change its position or modifying its proposal. As most applicants know, it is a difficult task to persuade the FAA that its air safety concerns are not warranted. Therefore, revisions to an applicant's proposal in accordance with FAA's suggestions become the only way of ensuring prompt FAA approval and avoiding delay of the comparative hearing process.

Thus, the events that triggered the need for the enclosed amendment are not voluntary acts of Mardirossian. They result from the government regulatory processes involved in this type of cases.

Issues and Conduct of Proceedings

Without a doubt, acceptance of the enclosed amendment alleviates the already heavy burden placed on all parties and the Commission in a comparative hearing setting. Acceptance of the amendment will avoid the designation of an FAA issue against Mardirossian, thus eliminating the need to involve the FAA as a party to this case with respect to Mardirossian and to prosecute such an issue. The proceedings will be streamlined without the FAA issue and will proceed in a more orderly fashion to address the comparative merits of the applicants. Moreover, Mardirossian's financial qualifications remain unchanged, thus avoiding the need for a financial issue. Therefore, no new issues would be required and the orderly

conduct of the proceedings would not be adversely affected since this case has not been designated for hearing.

Unfair Prejudice

The air hazard issue implicates the basic qualifications of Mardirossian to become a Commission licensee. It is not a comparative consideration that could enhance Mardirossian's application over the competing applications. Acceptance of the enclosed amendment and the avoidance of an FAA issue merely allow Mardirossian to move on to the comparative stage of this case once it is designated for hearing. The other applicants do not have a vested interest in Mardirossian's disqualification on a basic issue (Azalea Corp., 31 FCC 2d 561, 563 (1971)), and, therefore, are not unfairly prejudiced by acceptance of the enclosed amendment, particularly in a multi-party proceeding like this one.

Comparative Advantage

Under the same rationale of Azalea Corp., it is clear that Mardirossian is not gaining a comparative advantage over the other applicants by acceptance of its amendment. The FAA issue is not a comparative issue. Mardirossian will not receive or claim any comparative credits that it is not entitled to under applicable Commission precedent as a result of the enclosed amendment.

WHEREFORE, in light of the foregoing, Mardirossian respectfully requests that this petition be granted and that the enclosed amendment be accepted.

ARIS MARDIROSSIAN

By: 

Nora E. Garrote

PIPER & MARBURY
1200 19th Street, N.W.
Washington, D.C. 20554
(202) 861-3914

Its Attorneys

November 29, 1991

AMENDMENT

The application of Aris Mardirossian for authority to construct a new FM broadcast station in Ocean City, Maryland (BPH-901224MI), on Channel 295A, is hereby amended to report receipt of the attached Determination of Hazard to Air Navigation from the Federal Aviation Administration ("FAA") regarding the proposed tower site.

The applicant hereby amends Section V-B of the application to designate a new transmitter site. The attached Section V-B and related engineering exhibits should be substituted for the engineering materials submitted in the original application.

I hereby certify that the statements herein contained are true, complete, and correct, to the best of my knowledge and belief, and are made in good faith.

Aris Mardirossian

Date: November 22, 1991

US Department of Transportation
Federal Aviation Administration

SYSTEM MANAGEMENT BRANCH, AEA-530
AIR TRAFFIC DIVISION/EASTERN REGION
FEDERAL AVIATION ADMINISTRATION
FITZGERALD FEDERAL BUILDING
JFK INTERNATIONAL AIRPORT
JAMAICA, NEW YORK 11430

IN REPLY REFER TO
AERONAUTICAL STUDY NO. 90-AEA-1996-OE

DETERMINATION OF HAZARD TO AIR NAVIGATION

Aris Mardirossian
c/o Cohen, Dippell & Everist, P.C.
1300 L Street, N.W., Suite 1100
Washington, DC 20005

CONSTRUCTION LOCATION

PLACE NAME: Ocean City, MD

LATITUDE	LONGITUDE
38-20-04	75-07-16

CONSTRUCTION PROPOSED

DESCRIPTION: Antenna Tower 106.9 MHZ 3 KW

HEIGHT (IN FEET)

ABOVE GROUND	ABOVE MSL
343	353

An aeronautical study of the proposed construction described above has been completed under the provisions of Part 77 of the Federal Aviation Regulations. Based on the study it is found that the construction would have a substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities. Therefore, pursuant to the authority delegated to me, it is hereby determined that the construction would be a hazard to air navigation.

This determination is subject to review if a petition is filed by the sponsor on or before December 1, 1991. In the event a petition for review is filed it should be submitted in triplicate to the Manager, Flight Information and Obstructions Branch AAT-210, Federal Aviation Administration, Washington, D.C. 20591, and contain a full statement of the basis upon which it is made.

This determination becomes final on December 11, 1991 unless a petition for review is timely filed, in which case the determination will not become final pending disposition of the petition. Interested parties will be notified of the grant of any review.

An account of the study findings, aeronautical objections, if any, registered with the FAA during the study, and the basis for the FAA's decision in this matter will be found below and/or on the following page(s).

If the structure is subject to the licensing authority of the FCC, a copy of this determination will be sent to that Agency.

This determination, issued in accordance with FAR Part 77, concerns the effect of this proposal on the safe and efficient use of the navigable airspace by aircraft and does not relieve the sponsor of any compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

This proposal is to construct an antenna tower approximately one nautical mile (NM) north of Ocean City Airport in the vicinity of Ocean City, MD.

At this location and height, this structure would exceed the Obstruction Standards of FAR Part 77 as follows:

Section 77.23 (a) (2) Structures which exceed a specified height within a specified distance of an airport as applied to Ocean City, MD Airport by 141 feet.

Section 77.23 (a) (5) Airport surfaces by penetrating:

Section 77.25 (a) (1) Horizontal surface of Ocean City, MD Airport by 191 feet.

SIGNED Richard J. Haldeman TITLE Acting Manager, System Management Branch

ISSUED IN Jamaica, NY ON November 1, 1991

AERONAUTICAL STUDY NO. 90-AEA-1996-OE

This structure does exceed departure criteria. This structure would not cause an increase in departure criteria beyond the restrictions already in place.

Negotiations were attempted with the proponent, but resulted in request for aeronautical study at full filed height.

This study was circularized for comment on June 3, 1991. Objections were received. The State of Maryland Aviation objects to any construction that adds to proliferation of obstructions or impacts any Maryland airports.

The town of Ocean City MD, in addition to objecting to any additional obstruction, objects to interference with patterns and arrival/departure operations at the airport. The town is concerned with any potential impact to plans on file for new approaches and improvements to the airport.

The aeronautical study disclosed:

This site is just over one nautical mile north of the airport and approximately aligned with Runway 1/19.

As you approach the airport Runway 19, the structure would be just left of centerline.

At this distance and height, this proposed antenna would be an obstruction which would have to be identified and maneuvered around by arriving and departure aircraft.

At this location, because of the proximity to centerline, this obstruction is in the path of either right or left pattern climbing and descending aircraft. This height is very close to the height an aircraft would normally be at when at this approximate distance.

Obstruction marking and lighting would not alleviate the need to avoid this structure.

The proposed localizer approach was checked. This proposal would not increase any current instrument departure criteria or arrival criteria.

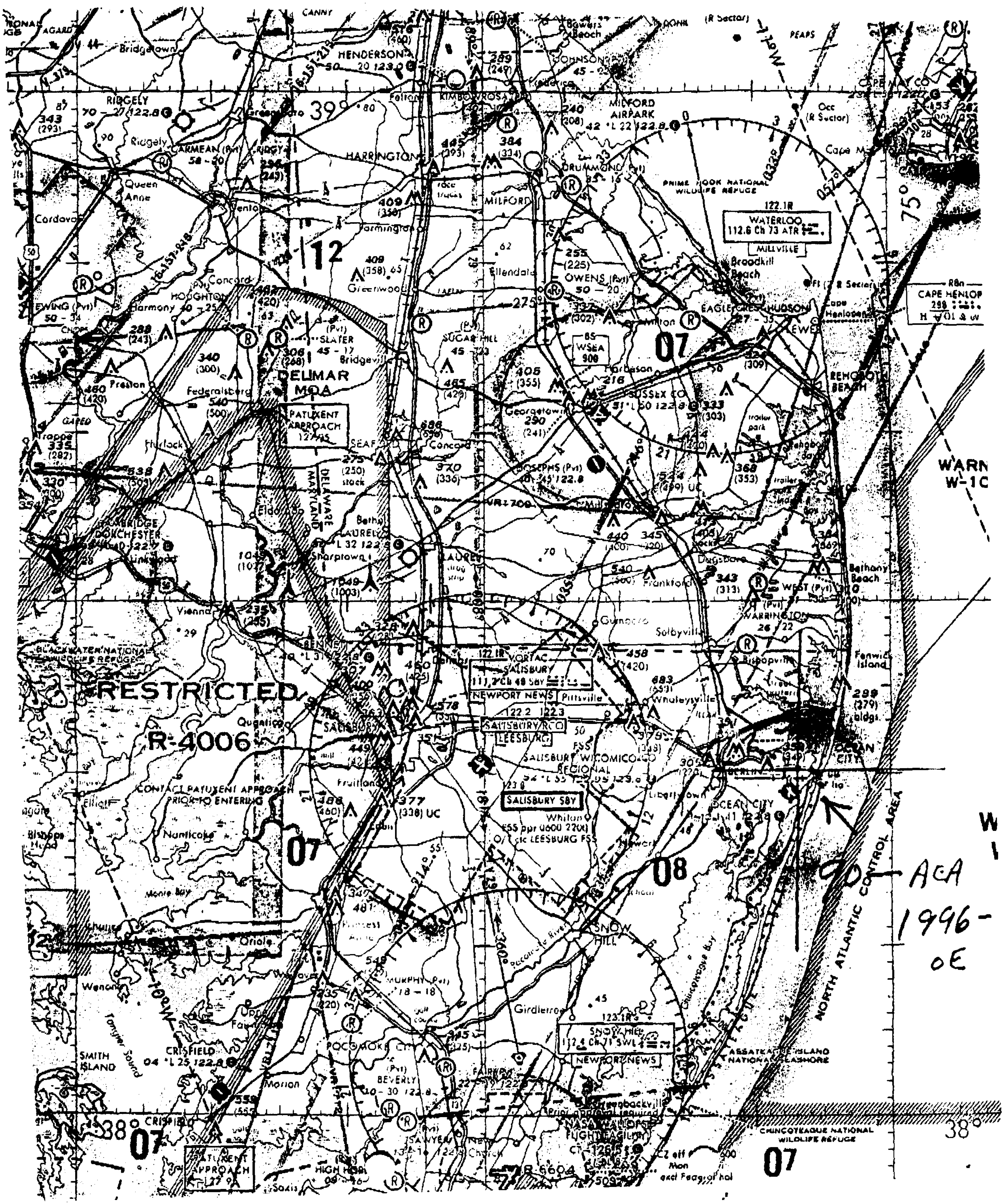
This proposal would not adversely impact any plans on file.

This is an active public use airport with 28 based aircraft. There are approximately 33,000 yearly operations. Runway 1/19 is used more than 40 percent of the time.

AERONAUTICAL STUDY NO. 90-AEA-1996-OE

By locating an obstruction at this height, a substantial amount of operations would be adversely impacted.

Therefore, a **Determination of Hazard to Air Navigation** is issued.



HENDERSON
RIDGELY
MILFORD AIRPARK
HARRINGTON
MILFORD
PRIME HOOK NATIONAL WILDLIFE REFUGE
WATERLOO
112.6 Ch 73 ATR
MILLVILLE
Broadkill Beach
CAPE HENLOPEN
Queen Anne
Cordova
Greenwood
Ellendale
OWENS (Pvt)
EWING (Pvt)
Harmony
Concord
HOUGHTON
SLATER
Bridgeville
SUGAR HILL
DELMAR MOA
PATUXENT APPROACH
Preston
Federalsburg
Georgetown
SUSSEX CO
Harbeson
Milton
REHOBOTH BEACH
Hurlock
Seaford
CAMBRIDGE DORCHESTER
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DELAWARE MARYLAND
Laurel
Sharptown
JOSEPHS (Pvt)
Millsboro
Dagsboro
Frankford
Bethany Beach
WARRINGTON
Vienna
BLACKWATER NATIONAL WILDLIFE REFUGE
RESTRICTED
R-4006
Quantico
SALISBURY
VORTAC SALISBURY
NEWPORT NEWS
Pittsville
SALISBURY RCO
LEESBURG
SALISBURY WICOMICO CO REGIONAL
SALISBURY SBY
Whaleyville
Bishopville
Fenwick Island
Selbyville
Gumboro
OCEAN CITY
BERLIN
Fruitland
Nanticoke
CONTACT PATUXENT APPROACH PRIOR TO ENTERING
Whiton
Newark
Princess Anne
MURPHY (Pvt)
SNOW HILL
Girdletree
Chincoteague Bay
NORTH ATLANTIC CONTROL AREA
ASSATEAGUE ISLAND NATIONAL SEASHORE
SNOW HILL
NEWPORT NEWS
POCOMOKE CITY
BEVERLY
CRISFIELD
SMITH ISLAND
Tangier Sound
Marion
Greenbackville
NASA WALLOPS FLIGHT FACILITY
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SECTION VI – EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

1. Does the applicant propose to employ five or more full-time employees? ☐ Yes ☐ No

If Yes, the applicant must include an EEO program called for in the separate Broadcast Equal Employment Opportunity Program Report (FCC 396-A).

SECTION VII – CERTIFICATIONS

1. Has or will the applicant comply with the public notice requirement of 47 C.F.R. Section 73.3580? ☐ Yes ☐ No

2. Has the applicant reasonable assurance, in good faith, that the site or structure proposed in Section V of this form, as the location of its transmitting antenna, will be available to the applicant for the applicant's intended purpose? ☒ Yes ☐ No

If No, attach as an Exhibit, a full explantion. Exhibit No.

3. If reasonable assurance is not based on applicant's ownership of the proposed site or structure, applicant certifies that it has obtained such reasonable assurance by contacting the owner or person possessing control of the site or structure.

Name of Person Contacted: Mark Sapperstein

Telephone No. *(include area code)*: (301)653-0334

Person contacted: *(check one box below)*

☒ Owner ☐ Owner's Agent ☐ Other *(specify)*

The APPLICANT hereby waives any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application. *(See Section 304 of the Communications Act of 1934, as amended.)*

The APPLICANT acknowledges that all the statements made in this application and attached exhibits are considered material representations, and that all exhibits are a material part hereof and incorporated herein.

The APPLICANT represents that this application is not filed for the purpose of impeding, obstructing, or delaying determination on any other application with which it may be in conflict.

In accordance with 47 C.F.R. Section 1.65, the APPLICANT has a continuing obligation to advise the Commission, through amendments, of any substantial and significant changes in information furnished.

SECTION VII – CERTIFICATION (Page 5)

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND IMPRISONMENT. U.S. CODE, TITLE 18, SECTION 1001.

I certify that the statements in this application are true and correct to the best of my knowledge and belief, and are made in good faith.

Name of Applicant	Signature
Date	Title

FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND THE PAPERWORK REDUCTION ACT

The solicitation of personal information requested in this application is authorized by the Communications Act of 1934, as amended. The principal purpose for which the information will be used is to determine if the benefit requested is consistent with the public interest. The staff, consisting variously of attorneys, analysts, engineers and applications examiners, will use the information to determine whether the application should be granted, denied, dismissed, or designated for hearing. If all the information is not provided, the application may be returned without action having been taken upon it or its processing may be delayed while a request is made to provide the missing information. Accordingly, every effort should be made to provide all necessary information. Your response is required to obtain the requested authority.

Public reporting burden for this collection of information is estimated to vary from 71 hours 45 minutes to 801 hours 30 minutes with an average of 118 hours 28 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, can be sent to the Federal Communications Commission, Office of Managing Director, Washington, D.C. 20554, and to the Office of Management and Budget, Paperwork Reduction Project (3060-0027), Washington, D.C. 20503.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, P.L. 93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(e)(3), AND THE PAPERWORK REDUCTION ACT OF 1980, P.L. 96-511, DECEMBER 11, 1980, 44 U.S.C. 3507.

EXHIBIT E

ENGINEERING REPORT RE
PROPOSED AMENDMENT OF
APPLICATION BPH-901224MI FOR A

NEW STATION IN OCEAN CITY MARYLAND

CH. 295A (106.9 MHZ) MAX 3.0 KW (H&V) 100 METERS

NOVEMBER 1991

COHEN, DIPPELL AND EVERIST, P.C.
CONSULTING ENGINEERS
RADIO AND TELEVISION
WASHINGTON, D.C.

COHEN, DIPPELL AND EVERIST, P. C.

City of Washington)
)ss
District of Columbia)

Donald G. Everist, being duly sworn upon his oath, deposes and states that:

He is a graduate electrical engineer, a Registered Professional Engineer in the District of Columbia, and is Secretary - Treasurer of Cohen, Dippell and Everist, P.C., Consulting Engineers, Radio - Television, with offices at 1300 L Street, N.W., Suite 1100, Washington, D.C. 20005;

That his qualifications are a matter of record in the Federal Communications Commission;

That the attached engineering report was prepared by him or under his supervision and direction and

That the facts stated herein are true of his own knowledge, except such facts as are stated to be on information and belief, and as to such facts he believes them to be true.

Donald G. Everist
District of Columbia
Professional Engineer
Registration No. 5714

Subscribed and sworn to before me this 19th day of November, 1991.

Notary Public
My Commission Expires
2/28/93

Introduction

This engineering report has been prepared on behalf of Aris Mardirossian ("Mardirossian") in support of his request to amend his pending application (FCC File No. BPH-901224MI) to construct a new FM broadcast station on Channel 295A (106.9 MHz) at Ocean City, Maryland. This requested amendment is necessary because the Federal Aviation Agency issued a *Determination of Hazard to Air Navigation* on November 1, 1991, for the tower proposed in Mardirossian's pending application (a copy of the *Determination* is included as Exhibit E-7). The tower at the new site which is prescribed in the requested amendment is being built by a third party.

The proposed facilities in the pending application are for a non-directional antenna with 3.0 kW (H&V) effective radiated power (ERP) and 100 meters antenna height above average terrain (AHAAT). The amendment now being requested proposes a new site, in accordance with §73.215 of the FCC rules and a directional antenna in accordance with §73.316 of the FCC Rules with a maximum ERP of 3.0 kW (H&V) and 100 meters AHAAT.

Exhibits requested by Section V-B of FCC Form 301 are included in this engineering report.

Transmitter Site

The proposed FM antenna will be side-mounted upon a new guyed tower. The proposed antenna site is located in Worcester County, 9.3 km (5.8 miles) northwest from Ocean City, Maryland, off State Route 589.

The geographic coordinates of the proposed site are as follows:

North Latitude: 38° 22' 52"
West Longitude: 75° 10' 32"

The following tabulation shows the pertinent data for the proposed installation.

Equipment Data
(unchanged)

Transmitter:	Type-approved.
Antenna:	Harris, FML-3E, 3-bay, circularly polarized directional antenna.

Power Data
(unchanged)

Power Input to Antenna:	1.925 kW
Antenna Power Gain (H&V):	1.5588
Effective Radiated Power (H&V):	3.0 kW

Elevation Data[1/]

Height of supporting structure above ground (including beacon and lightning rod)	121.9 meters (400 feet)
Vertical dimension of FM antenna	6.1 meters (20 feet)
Elevation of site above mean sea level[2/]	6.1 meters (20 feet)
Elevation of center of radiating system above mean sea level	104.9 meters (344 feet)
Overall height above mean sea level (including beacon and lightning rod)	128.0 meters (420 feet)

[1/]English units are included for convenience only and were rounded to the nearest foot.

[2/]The site elevation has been established by a licensed surveyor.

Allocation Situation

The attached Table I shows the distances from the proposed FM operation to the pertinent co-channel and adjacent channel assignments and allotments. Since the petition to make the allotment of Channel 295A to Ocean City was made prior to October 2, 1989, separation distances are subject to the grandfather provisions of §73.207 of the FCC rules.

Analysis of pertinent licenses, applications, construction permits, and other allotments indicates that the separation distances in the Table in §73.213(c) may be applied to the application at North Cape May, New Jersey, Channel 294A (File No. BPH-880728MC)[3/], WKDN, Channel 295C, Camden New Jersey, and WAFX, Channel 295C, Suffolk, Virginia. All other spacings must be in accordance with the separation distances prescribed in §73.207.

The antenna site now being proposed by Mardirossian complies with all required separation distances except for WDLE-FM, Channel 296A, Federalsburg, Maryland. Mardirossian proposes to employ a directional antenna under the provisions of §73.215 of the FCC rules to provide requisite protection to WDLE-FM. Exhibit E-4 is provided to depict the relationship between the 54 dBμ and 60 dBμ contours of WDLE-FM and the proposed operation. As shown, there is no prohibited overlap. Exhibits E-5A and E-5B depict prescribed polar plots for the proposed directional antenna envelop.

Topographic Data

It was noted that the 30-second terrain data base from the NGDC had insufficient resolution in the coastal areas around Ocean City, Maryland. Therefore, it was decided to use the 3-second data base since it would provide the most accurate computer generated data. Section 73.312(d) states that, except in disputes, use of a 30-second point or better topographic data file may be used (Emphasis added). This method was accepted by the FCC in

[3/] A competing application, File No. BPH-880728NM, was denied on August 30, 1991

Mardirossian's previous application, BPH-901224MI. Additionally, data from 7.5 minute USGS quadrangles were used for radials N 45°E, N 90°E, and N 135° to provide greater accuracy toward the coastal areas.

The average elevation values for the radials in Table II, except for N 45°E, N 90°E, and N 135°E, were obtained by averaging a large number of NGDC 3-second derived data points. The close proximity of the proposed site to the Atlantic Ocean and associated water ways prompted interpretation of §73.313(d)(2) of the FCC Rules for the radials N 45°E, N 90°E, and N 135°E. On each of these three radials, part of the 3 to 16 km portion of the radial falls out to sea and application of §73.313(d)(2) is ambiguous. Based upon numerous previous discussions with FCC staff, this rule was interpreted to prescribe use of only that terrain data from 3 km to the outermost portion of land area where the 50 μV contour or greater encompasses United States land area.

Contour Data

The distances along these radials to the limits of the 3.16 mV/m (70 dBμ) and the 1 mV/m (60 dBμ) contours were determined by reference to Figure 1, §73.333 of the rules and are shown on the attached Table II. The 3.16 mV/m and the 1 mV/m contours are shown on an attached map (Exhibit E-3).

Population and Area Data

The population within the 1 mV/m (60 dBμ) contour was determined by employing a computer program using the 1990 census data. To accomplish this, the program overlaid the 1 mV/m (60 dBμ) contour over the land area in Maryland and Delaware and determined the population within the contour by using the centroids for pertinent census blocks. The land area of the contour was measured with a polar planimeter using the original map.

FAA Data

The new guyed tower being built by the third party has received a *Determination of No Hazard to Air Navigation* from the FAA, Aeronautical Study No. 90-AEA-1294-OE (see Exhibit E-4) issued June 3, 1991.

Main Studio Location

The main studio will be located within the 70 dBμ contour in accordance with Section 73.1125 of the Rules.

Other Radio Stations

There are no FM or TV broadcast stations located within 200 meters of the proposed site. There is one FM station and three construction permits for new operations located within 10 km of the proposed site. These stations are WKHI, Channel 260B and construction permits on channels 221A, 246A, and 250A. WKHI and the proposed operation have the potential for producing intermodulation products on Channel 225 (92.9 MHz). Channel 250 and the proposed operation have the potential for producing intermodulation products on Channel 205 (88.9 MHz). However, there are no FM stations in the vicinity of the proposed operation which may be affected. In the event that receiver-induced intermodulation interference occurs, however, Mardirossian will resolve any problems caused by its proximity to these operations.

There are no TV stations within 10 km of the proposed site. Moreover, there are no AM stations located within 3.22 km of the proposed site.

Blanketing Contour

The proposed blanketing contour (115 dBμ) based on an ERP of 3.0 kW will extend approximately 0.68 km (0.42 mile) from the site. The applicant will comply with all the pertinent requirements of Section 73.318 of the FCC Rules.

Auxiliary Power

The applicant proposes to install auxiliary power at the studio and transmitter site of proposed FM station.

Environmental Statement

The 6 kW operation (3 kW H plus 3 kW V) will utilize a 3-bay directional FM antenna with a center of radiation above ground of 98.8 meters. The antenna proposed according to the manufacturer meets the "best-case" downward radiation specified in OST Bulletin No. 65. Based on "best-case" downward radiation, the proposed operation complies with the FCC Rules, §1.1307 as it meets the provisions of the ANSI RF radiation guideline. The proposed operation based upon two methods (OST Bulletin No. 65 and the EPA Model) meets the provisions of the ANSI RF radiation guideline and thus, complies with Section 1.1307 of the FCC Rules.

The radiation computed in accordance with OST Bulletin No. 65 at two meters above ground level near the base of the guyed tower is 2 $\mu W/cm^2$. The radiation computed in accordance with the Environmental Protection Agency (EPA) model at two meters above ground level is 0.6 $\mu W/cm^2$. Therefore, both methods demonstrate that the proposed operation is in compliance with the maximum level recommended by the ANSI RF radiation guideline.

Provision will be made to reduce or to switch the transmitter off, as appropriate, when it is necessary for authorized personnel to be at or above the 90 meter level of the 128.0 meter tower (the EPA Model predicts that the 92 meters level would be appropriate).

An environmental assessment (EA) is categorically excluded under Section 1.1307 of the FCC Rules and Regulations since the applicant indicates:

(a)(1) The proposed facilities are not located in an officially designated wilderness area.

(a)(2) The proposed facilities are not located in an officially designated wildlife preserve.

(a)(3) The proposed facilities will not affect any listed threatened or endangered species or habitats.

(a)(4) The proposed facilities will not affect any known districts, sites, buildings, structures, or objects significant in American history, architecture, archaeology, engineering, or culture.

(a)(5) The proposed facilities are not located near any known Indian religious sites.

(a)(6) The proposed facilities are not located in a flood plain.

(a)(7) The existing new 121.9 meter (400 foot) guyed tower will not involve a significant change in surface features of the ground in the vicinity of the tower.

(a)(8) It is not proposed to equip the tower with high intensity white lights.

(b) A security fence with a locked gate will surround the tower. Workers and the general public will not be subjected to RF radiation levels in excess of ANSI standard, C95.1-1982. Authorized personnel will be alerted to areas of the tower where potential radiation levels are in excess of the ANSI standard and the transmitter power will be reduced or terminated as necessary.

COHEN, DIPPELL AND EVERIST, P. C.

TABLE I
FM ALLOCATION SITUATION
FOR THE PROPOSED CHANNEL 295A OPERATION AT
OCEAN CITY, MARYLAND
NOVEMBER 1991

Channel	Call	City/State	Geographic Coordinates	Separation Actual km	Separation Required km
295A	Proposed	Ocean City, MD	N 38°22'52" W 75°10'32"	--	--
241C	None within 80 km		---	--	28
242C	None within 80 km		---	--	28
292A	WCEM-FM	Cambridge, MD	N 38°35'02" W 76°04'56"	82.3	31
293A	WMYJ App.	Pocomoke City, MD	N 38°04'37" W 75°32'19"	46.4	31
293A	WMYJ CP	Pocomoke City, MD	N 37°58'38" W 75°32'36"	55.2	31
294A	New App* BPH-880727MC	North Cape May, NJ	N 38°57'32" W 74°55'23"	67.8	72** (64)
294B	WJFK	Manassas, VA	N 38°52'28" W 77°13'24"	186.5	113
295B	WKDN	Camden, NJ	N 39°54'33" W 75°06'00"	169.8	178** (163)
295C	WAFX	Suffolk, VA	N 36°48'16" W 76°45'17"	223.8	226** (222)
296A	WDLE-FM	Federalsburg, MD	N 38°46'02" W 75°44'46"	65.6	72 (64)
297B1	New Appgid	Atlantic City, NJ	N 39°23'57" W 74°22'19"	132.8	48
297B	WRQX	Washington, DC	N 38°57'01" W 77°04'47"	177.4	69
298B	WKRE-FM	Exmore, VA	N 37°31'46" W 75°54'44"	114.6	69

*Application granted in MM Docket No. 90-354
**Grandfathered under MM Docket No. 88-375
See Exhibit E "Allocation Situation"
( ) 3 kW Separation Distances

COHEN, DIPPELL AND EVERIST, P. C.

TABLE II
COMPUTED COVERAGE DATA
FOR THE PROPOSED FM OPERATION AT
OCEAN CITY, MARYLAND
NOVEMBER 1991

Radial Bearing N °E,T	Average* Elevation 3 to 16 km meters	Height of Radiation Center Above Average Elevation of Radial 3 to 16 km meters	Effective Radiated Power dBk	Predicted Distance to Contour 3.16 mV/m km	Predicted Distance to Contour 1 mV/m km
0	5.5	99.4	4.77	13.6	24.3
45	0.9**	104.0	4.77	13.9	24.8
90	0.5**	104.4	4.77	14.0	24.9
135	1.8**	103.1	4.77	13.9	24.7
180	3.0	101.9	4.77	13.8	24.6
225	8.8	96.1	4.77	13.4	24.0
270	8.7	96.2	4.77	13.4	24.0
315	9.6	95.3	2.33	11.6	20.7

*Based on NGDC 3-second data base, except where imprinted with ** see Exhibit E - "Topographic Data".

**Based on USGS 7.5 minute topographic quadrangle maps, only those portions of the path, 3 km to 16 km, over land were used see Exhibit E - "Topographic Data".

Channel 295A (106.9 MHz)
Effective Radiated Power 3 kW (4.77 dBk) Maximum
Average Elevation 3 to 16 km 4.9 meters AMSL
Center of Radiation 104.9 meters AMSL
Antenna Height Above Average Terrain 100 meters

North Latitude: 38° 22' 52"
West Longitude: 75° 10' 32"

COHEN, DIPPELL AND EVERIST, P. C.

TABLE III
COMPUTED CONTOUR DATA
FOR THE PROPOSED FM OPERATION OF
AMENDED APPLICATION BPH-901224MI
OCEAN CITY, MARYLAND
NOVEMBER 1991

Radial Bearing N °E,T	Average* Elevation 3 to 16 km meters	Effective Height 3 to 16 km meters	Effective Radiated Power dBk	Predicted Distance to Contour 60 dBu F(50,50) km	54 dBu F(50,10) km
265	8.5	96.4	4.77	24.0	35.6
266	8.6	96.3	4.77	24.0	35.6
267	8.6	96.3	4.77	24.0	35.6
268	8.6	96.3	4.77	24.0	35.6
269	8.6	96.3	4.77	24.0	35.6
270	8.7	96.2	4.77	24.0	35.6
271	8.7	96.2	4.77	24.0	35.6
272	8.8	96.1	4.77	24.0	35.6
273	8.8	96.1	4.77	24.0	35.6
274	8.9	96.0	4.77	24.0	35.6
275	8.9	96.0	4.77	24.0	35.6
276	9.0	95.9	4.77	24.0	35.5
277	9.0	95.9	4.77	24.0	35.5
278	9.0	95.9	4.77	24.0	35.5
279	9.0	95.9	4.77	24.0	35.5
280	9.0	95.9	4.77	24.0	35.5
281	9.1	95.8	4.77	24.0	35.5
282	9.1	95.8	4.73	23.9	35.4
283	9.2	95.7	4.68	23.8	35.3
284	9.2	95.7	4.64	23.7	35.2
285	9.2	95.7	4.51	23.6	35.0
286	9.2	95.7	4.37	23.4	34.7
287	9.2	95.7	4.23	23.2	34.4
288	9.2	95.7	4.14	23.1	34.2
289	9.1	95.8	3.95	22.8	33.9
290	9.1	95.8	3.76	22.6	33.5
291	9.1	95.8	3.56	22.3	33.1
292	9.1	95.8	3.46	22.2	32.9
293	9.1	95.8	3.36	22.1	32.7
294	9.1	95.8	3.26	21.9	32.5
295	9.2	95.7	3.15	21.8	32.3
296	9.3	95.6	2.99	21.6	32.0
297	9.3	95.6	2.89	21.4	31.8
298	9.3	95.6	2.72	21.2	31.5
299	9.3	95.6	2.67	21.2	31.4
300	9.3	95.6	2.61	21.1	31.3